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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/627,395

07/27/2000

Richard E. Sklar

071815/0477

1193

7590

03/29/2007

Kyle Eppel

Rockwell International Corporation

Intellectual Property Division

400 Collins Road NE MS 124 323

Cedar Rapids, IA 52498

EXAMINER

MILLER, JOHN W

ART UNIT

PAPER NUMBER

2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

DETAILED ACTION

Reissue Applications

Applicant is reminded of the continuing obligation under 37 CFR 1.178(b), to timely apprise the Office of any prior or concurrent proceeding in which Patent No. 5,790,175 is or was involved. These proceedings would include interferences, reissues, reexaminations, and litigation.

Applicant is further reminded of the continuing obligation under 37 CFR 1.56, to timely apprise the Office of any information which is material to patentability of the claims under consideration in this reissue application.

These obligations rest with each individual associated with the filing and prosecution of this application for reissue. See also MPEP §§ 1404, 1442.01 and 1442.04.

Assent and Consent/3.73(b)

This application is objected to under 37 CFR 1.172(a) as the existing Consent and hence 3.73(b) is defective. A new Consent/3.73(b) is required. The Assent states, "The undersigned assignee of the entire right, title and interest...", however, the assignee is not listed. In addition to, the title of the person signing does not refer back to any corporation/organization, etc. Therefore, the Consent is defective for failing to indicate the assignee alleging entire right, title and interest. The consent of the assignee must be in compliance with 37 CFR 1.172. See MPEP § 324 and 1410.01.

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A proper assent of the assignee in compliance with 37 CFR 1.172 and 3.73 is required in reply to this Office action.

Claims Not in Compliance with § 1.173

The claims filed on 10/31/03, as well as on 4/31/03, are not in compliance with § 1.173, requiring that anything being added to the original Patent must be underlined and anything being deleted from the original Patent must be bracketed. This is a requirement for **each** amendment that is submitted, i.e., each amendment has to be made as though it were the only amendment that has been filed with respect to the original Patent.

The examiner previously recognized the issue regarding the claims filed on 10/31/03 being non-compliant with § 1.173 and had the applicants' representative fax in an amendment in compliance with § 1.173 on 1/6/06. However, this amendment was faxed directly to the examiner, and upon further review it was determined that the title of the amendment is improper. More specifically, the amendment faxed to the examiner on 1/6/06 is titled as a "preliminary amendment" which is improper.

In addition to, the changes to the claims are after the last declaration, and therefore a new supplemental declaration is required, since the claims in the faxed "preliminary" amendment are different than the claims filed on 10/31/03.

Claim Rejections - 35 USC § 251

In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

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Claims 1-45 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

See MPEP § 1414.01.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael W. Hoyer whose telephone number is **571-272-7346**. The examiner can normally be reached on Monday to Friday from 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at **571-272-7353**.

Any response to this action should be mailed to:

Please address mail to be delivered by the United States Postal Service (USPS) as follows:

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Except correspondence for Maintenance Fee payments, Deposit Account Replenishments (see 1.25(c)(4)), and Licensing and Review (see 37 CFR 5.1(c) and 5.2(c)), please address correspondence to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolator, etc.) as follows:

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401 Dulany Street
Alexandria, VA 22314

Some correspondence may be submitted electronically. See the Office's Internet Web site <http://www.uspto.gov> for additional information.

Or faxed to: 571-273-8300

Hand-delivered responses should be brought to the Customer Service Window at the address listed above.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is **571-272-2600**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

Michael W. Hoye
March 28, 2007


JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600